

APPEAL NO. 030508
FILED APRIL 16, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on January 10, 2003. With respect to the issues before him, the hearing officer determined that the compensable injury of _____, does not include the appellant's (claimant) diagnosed depressive disorder and that her impairment rating (IR) is 10%, as certified by the designated doctor selected by the Texas Workers' Compensation Commission for her back injury. In her appeal, the claimant asserts error in each of those determinations. In its response to the claimant's appeal, the respondent (self-insured) urges affirmance. At the hearing, the parties agreed that the claimant reached maximum medical improvement on June 14, 2002.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant's compensable injury of _____, does not include her diagnosed depressive disorder. That issue presented a question of fact for the hearing officer to resolve. From the hearing officer's discussion, it is apparent that he was not persuaded that the claimant sustained her burden of proving that her compensable injury aggravated her preexisting depression. That is, the hearing officer determined that the claimant did not sustain her burden of proving the causal connection between her compensable injury and her depression. The hearing officer was acting within his province as the fact finder in so finding. Our review of the record does not reveal that the challenged determination is so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Therefore, no sound basis exists for us to reverse that determination on appeal. Pool v. Ford Motor Co., 715 S.W.2d 629 (Tex. 1986); Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The claimant's argument that the hearing officer erred in giving presumptive weight to the designated doctor's IR is dependent upon the success of her argument that the compensable injury includes depression. Given our affirmance of the hearing officer's determination that the compensable injury does not include depression, we cannot agree that the hearing officer erred in giving presumptive weight to the designated doctor's report or in adopting the 10% IR, which was the rating the designated doctor assigned for the low back injury.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **STATE OFFICE OF RISK MANAGEMENT (a self-insured governmental entity)** and the name and address of its registered agent for service of process is

For service in person the address is:

**RON JOSSELET, EXECUTIVE DIRECTOR
300 W. 15TH STREET
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Elaine M. Chaney
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Terri Kay Oliver
Appeals Judge